

MT LEGISLATIVE HISTORY

Chapter 59 19 71

Bill H 596 S _____

Original bill & hist. C

H. Committee on Const. Elect. & Fed. Rel. S. Committee on Const. Elect. & Fed. Rel.

Hearing Date(s) 2/12 _____ C

Hearing Date(s) _____ C

2/17 _____ C

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Date Out _____ C

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Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

NINTH MEETING

The ninth meeting of the Constitutions, Elections, and Federal Relations Committee was called to order by Chairman, Senator McDonald on February 17, 1971 at 8:00 A.M. in Room 410.

ROLL CALL

Roll call was taken and Senator Sheehy and Senator McGowan absent. A quorum was present.

HJR 32

Representative Jackson, sponsor, mentioned that this was to urge the Constitutional Convention to amend Section 1 and Section 2, Article XVII, of the Montana Constitution, providing the Board of Land Commissioners authority to classify the lands and that these classifications may be changed from time to time.

HB 596

Representative Robbins, sponsor, mentioned that this was to get the certificates of nomination of candidates filed not more than thirty (30) days before and not less than fifteen (15) days prior to the election.

HJR 46

Representative Weeding, sponsor, mentioned that this Resolution was to get the Clerk of Court elected with other offices.

HB's 394, 395, 396, 397, 398, and 399

Representative Keller, sponsor, mentioned that these bills all pertain to the change in voting age.

HJR 14

Representative Keller, sponsor, mentioned that the most important line in the Resolution is line 24, page 2, "that there be enacted by the Congress of the United States a code of protective legislation similar to the Uniform Code of Military Justice, Public Law 506", in time of war for Congress to do the same thing. He presented a newspaper clipping from the Great Falls Tribune.

HB 272

Representative Warfield, sponsor, mentioned that this Bill is to pass legislation in the school law.

HB 520

Representative Warfield, sponsor, mentioned that this was just for housekeeping in the law. Page 3 of the printed bill is to notify the judges to attend along with the clerks.

HB 475

Mr. Mizner, in place of Representative Cox, mentioned that this Bill was based on the Supreme Court decisions.

Senator Moore moved that HB 475 be amended, seconded by Senator Lynch, as follows: "Amend Section 2, Subsection (1)(a), page 3, lines 3 and 4 of the original bill being section 2, subsection (1)(a), page 3, lines 3 and 4 of the approved committee bill by striking the following words, figures, and punctuation "nineteen (19) years of age, or older" and inserting in lieu thereof the following words "of the minimum age for voting provided by the Constitution of the state of Montana"

Senator Lynch, seconded by Senator Northey, moved that HB 475 be amended as follows: "AND FURTHER AMEND: Section 3, page 3, line 27 of the original bill being section 3, page 3, line 27 of the approved committee bill following the word "by" by omitting the following words and figures "article IX of"

HB 475

Senator Lynch, seconded by Senator Moore, moved that HB 475 BE CONCURRED IN AS AMENDED, motion carried.

HB 272

Senator Moore motioned that HB 272 BE CONCURRED IN, seconded by Senator Lyon, motion carried.

HB 394, 395, and 396

Senator Northey motioned that HB's 394, 395, and 396 BE CONCURRED IN, seconded by Senator Lyon, motion carried.

HB 397, 398

Senator Lyon motioned that HB 397 and 398 BE CONCURRED IN, seconded by Senator Northey, motioned carried.

HB 520

Senator Lyon motioned that HB 520 BE CONCURRED IN, seconded by Senator Lynch, motion carried.

HB 596

Senator Northey motioned that HB 596 BE CONCURRED IN, seconded by Senator Lyon, motion carried.

HB 399

Senator Lynch moved to amend HB 399 as follows: Section 5, page 5, line 20 after the word "county" by inserting the words "or district" and further amend Section 5, page 5, line 21 after the word "committees" by inserting the words "of the county or district"

STANDING COMMITTEE REPORT

- ☐ DO PASS
- ☐ DO NOT PASS
- ☒ BE CONCURRED IN
- ☐ BE NOT CONCURRED IN
- ☐ BE ADOPTED
- ☐ BE NOT ADOPTED

February 17, 1971

PRESIDENT

MR. _____ :

CONSTITUTIONS, ELECTIONS, AND FEDERAL RELATIONS

We, your committee on

HOUSE

596

having had under consideration

Bill No.

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 23-3318, R.C.M., 1947, BY PROVIDING FOR FILING OF CERTIFICATES OF NOMINATION BY CANDIDATES FOR MUNICIPAL OFFICES, AND PROVIDING AN EFFECTIVE DATE."

house

596

Respectfully report as follows That

Bill No.

BE CONCURRED IN

XXXXXX
DO PASS

**February 8, 1971
Proceedings of the
CONSTITUTION, ELECTIONS & FEDERAL RELATIONS COMMITTEE**

Chairman Tom Haines called the meeting to order at 10:30 a.m. The secretary called the roll: nine members present with Representatives Mather, Brown, Menahan and Zimmer being absent.

HOUSE BILL 596: Rep. Herschel Robbins, District 12A, Chief Sponsor, said this bill covers an area that was overlooked when the codes were recodified. This would provide for certificates of nomination of candidates for municipal offices. About 115 communities use independent tickets in municipal elections.

POPONENT: Dan Mizner, League of Cities and Towns said he heartily supports this legislation.

SENATE JOINT RESOLUTION NO. 20: Senator Bollinger, District 5, Chief Sponsor, stated that this resolution would direct the State Welfare Department to make a study of the feasibility of establishing district offices to bring social services to Montana. He stated there was no cost involved.

HOUSE BILL 410: Rep. Hall, District 18, Chief Sponsor, told the committee this is to correct a mistake made in the revision of election laws during last session. Whereas the law aimed to provide that no Montana citizen could lose his residency by being employed in armed forces or government work outside of Montana, it has been also interpreted as meaning that no one from outside the state, working for the state, can gain residency and this was not the intent of the legislation passed last session.

EXECUTIVE SESSION:

HOUSE BILL 177: Committee Bill, prepared as an amendment, was studied by the members. Rep. Hall moved to adopt the amendment. Motion carried. Rep. Hall moved to Do Pass as Amended. Motion carried. **DO PASS AS AMENDED.**

HOUSE BILL 410: Rep. Hall moved Do Pass; motion carried. **DO PASS.**

HOUSE BILL 596: Rep. Lynch moved Do Pass; motion carried. **DO PASS.**

SENATE JOINT RESOLUTION NO. 20: Rep. Hall moved Do Pass; motion carried. **DO PASS.**

HOUSE BILL 397: Rep. Hall moved to amend so voting age and residency requirements would be as provided for in the Constitution of the State of Montana. Motion carried. Rep. Hall moved to Do Pass As Amended; motion carried. **DO PASS AS AMENDED.**

HOUSE BILL 398: Rep. Hall moved to amend this bill so age and residency would be the same as required in the Constitution in the State of Montana; motion carried. Rep. Zody moved to Do Pass as Amended; motion carried. **DO PASS AS AMENDED.**

HOUSE BILL 596: Rep. Hall moved to reconsider action taken on 596 for the purpose of amendment to the title to provide an effective date. Motion carried. Rep. Hall moved to Do Pass as Amended;

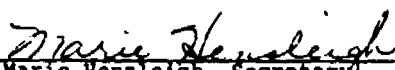
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Constitution, Elections & Federal Relations

motion carried. DO PASS AS AMENDED.

There being no further bills to act upon, the meeting adjourned at
10:55 a.m.



TOM JAYNES, CHAIRMAN



Marie Hensleigh, Secretary

HOUSE BILL NO. *596*INTRODUCED BY *Robb Cox J. Kelly*

23-3318

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 23-3318, R.C.M., 1947, BY PROVIDING FOR FILING OF CERTIFICATES OF NOMINATION BY CANDIDATES FOR MUNICIPAL OFFICES."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 23-3318, R.C.M., 1947, is amended to read as follows:

"23-3318. Certificates of nomination by individuals or parties not appearing on prior ballot -- requisites -- applicability. Except as provided in subsection (6) of this section, nominations for public office by an individual or a political party which did not appear on the ballot in the next preceding election may be made by executing a certificate of nomination.

(1) The certificate must be in writing and contain:

(a) The name of a candidate for the office to be filled;

(b) His residence, his occupation, and his business address.

(2) If a certificate is filed by a political party which did not appear on the ballot in the next preceding election, it must contain the party name and in five (5) words or less the principle which such body represents.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature, his place of residence,

INTRODUCED BILL

1 and his business address.

2 (4) The number of signatures must be five per cent (5%)
3 or more of the total vote cast for the successful candidate for
4 the same office at the next preceding election.

5 (5) The candidates for nomination shall file the certificates
6 ninety (90) days prior to the date of the general election.

7 Certificates of nomination of candidates for municipal offices
8 must be filed with the clerks of the respective municipal
9 corporations not more than thirty (30) days and not less than
10 fifteen (15) days previous to the day of election.

11 (6) A person who desires to run for president or vice-
12 president as an independent candidate, must file a certificate
13 of nomination with the secretary of state. The certificate must
14 have the signatures of electors equal to five per cent (5%) or
15 more of the legal votes cast for governor at the next preceding
16 general election. He must also nominate the required number of
17 electors allowable to Montana and certify the names to the
18 secretary of state.

19 (7) This section shall not apply to nominations for special
20 elections or to fill vacancies.

21 Section 2. This act is effective on its passage and
22 approval.
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☒ AS AMENDED

STANDING COMMITTEE REPORT

- ☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

February 1, 1971

SPEAKER:
MR. JIMMIE

We, your committee on CONSTITUTION, ELECTORS & FEDERAL RELATIONS

having had under consideration HOUSE BE No. 596

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 23-3318, R.C.M. 1947, BY PROVIDING FOR FILING OF CERTIFICATES OF NOMINATION BY CANDIDATES FOR MUNICIPAL OFFICES."

Respectfully report as follows: That HOUSE BE No. 525

Be amended on page 1, line 8 of the title of the introduced bill, following the word "OFFICES" insert the following new material: AND PROVIDING AN EFFECTIVE DATE, and

AS SO AMENDED

DO PASS

House Committee Report Form

Chairman

CHAPTER NO. 58

An Act to Amend Section 64-207.1, R.C.M. 1947, Relating to the Opportunity of a Publisher of Libelous or Defamatory Matter to Correct the Same, by Adding Cable Television Systems to the List of Such Publishers: Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 64-207.1, R.C.M. 1947, is amended to read as follows:

Prior to civil action. Libeled person shall give opportunity to correct. Notice in writing. Reasonable time defined. Radio and television. 7 days. Retraction. Correction defined. Trial.

"64-207.1. **Notice in writing to publisher of libelous or defamatory matter—opportunity to correct—defense and mitigation of damages.** Before any civil action shall be commenced on account of any libelous or defamatory publication in any newspaper, magazine, periodical, radio or television station, or cable television system, the libeled person shall first give those alleged to be responsible or liable for the publication a reasonable opportunity to correct the libelous or defamatory matter. Such opportunity shall be given by notice in writing specifying the article and the statements therein which are claimed to be false and defamatory and a statement of what are claimed to be the true facts. The notice may also state the sources, if any, from which the true facts may be ascertained with definiteness and certainty. The first issue of a newspaper, magazine or periodical published after the expiration of one week from the receipt of such notice shall be within a reasonable time for correction. In the case of radio and television stations and cable television systems a broadcast made at the same time of day as the broadcast complained of and of at least equal duration, which is made within seven (7) days following receipt of such notice shall be within a reasonable time for correction. To the extent that the true facts are, with reasonable diligence, ascertainable with definiteness and certainty, only a retraction shall constitute a correction; otherwise the publication of the libeled person's statement of the true facts, or so much thereof as shall not be libelous of another, scurrilous, or otherwise improper for publication, published as his statement, shall constitute a correction within the meaning of this section. If it shall appear upon trial that the publication was made under honest mistake or mis-

apprehension, then a correction, timely published, without comment, in a position and type as prominent as the alleged libel, or in a broadcast made at the same time of day as the broadcast complained of and of at least equal duration, shall constitute a defense against the recovery of any damages except actual damages, as well as being competent and material in mitigation of actual damages to the extent the correction published does so mitigate them."

Publication of correction.

Defense.

Mitigation.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 20, 1971.

CHAPTER NO. 59

An Act to Amend Section 23-3318, R.C.M. 1947, by Providing for Filing of Certificates of Nomination by Candidates for Municipal Offices; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-3318, R.C.M. 1947, is amended to read as follows:

Amending clause.

"23-3318. **Certificates of nomination by individuals or parties not appearing on prior ballot—requisites—applicability.** Except as provided in subsection (6) of this section, nominations for public office by an individual or a political party which did not appear on the ballot in the next preceding election may be made by executing a certificate of nomination.

Nominations for public office.

Certificate requirements.

(1) The certificate must be in writing and contain:

(a) The name of a candidate for the office to be filled;

(b) His residence, his occupation, and his business address.

(2) If a certificate is filed by a political party which did not appear on the ballot in the next preceding election, it must contain the party name and in five (5) words or less the principle which such body represents.

Political party.

Signed by electors.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature, his place of residence, and his business address.

5% or more of vote.

(4) The number of signatures must be five percent (5%) or more of the total vote cast for the successful candidate for the same office at the next preceding election.

Filing 90 days prior to election.

(5) The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election. *Certificates of nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than thirty (30) days and not less than fifteen (15) days previous to the day of election.*

Municipal offices. Filing not more than 30—not less than 15 days.

(6) A person who desires to run for president or vice-president as an independent candidate, must file a certificate of nomination with the secretary of state. The certificate must have the signatures of electors equal to five percent (5%) or more of the legal votes cast for governor at the next preceding general election. He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state.

Independent candidates. Certificate requirements.

Exceptions.

(7) This section shall not apply to nominations for special elections or to fill vacancies.

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved February 24, 1971.

CHAPTER NO. 60

An Act to Provide a Period of Ten Years Within Which an Action for Damages Arising out of Certain Services or Work on Improvements to Real Property Must Be Commenced; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Limitation on actions.

Section 1. Except as provided in sections 2 and 3 of this act, no action to recover damages (other than an

action upon any contract, obligation, or liability, founded upon an instrument in writing) resulting from or arising out of the design, planning, supervision, inspection, construction, or observation of construction of, or land surveying done in connection with, any improvement to real property shall be commenced more than ten (10) years after completion of such improvement.

10 years.

Section 2. Notwithstanding the provisions of section 1 of this act, an action for such damages for an injury which occurred during the tenth year after such completion may be commenced within one (1) year after the occurrence of such injury.

Exception.

Section 3. The limitation prescribed by this act shall not affect the responsibility of any owner, tenant, or person in actual possession and control of the improvement at the time a right of action arises.

Limitation does not affect responsibility.

Section 4. As used in this act, the term "completion" means that degree of completion at which the owner can utilize the improvement for the purpose for which it was intended or when a completion certificate is executed, whichever is earlier.

"Completion" defined.

Section 5. Nothing in this act shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

Construction.

Section 6. In order to provide a reasonable period for commencement of any action for which a right of action has heretofore accrued, this act shall be effective January 1, 1972.

Effective January 1, 1972.

Approved February 27, 1971.

CHAPTER NO. 61

An Act Providing for the Creation of a Confidential Relationship Between Student and School Personnel.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-701-4, R.C.M., 1947, is amended to read as follows:

Amending clause.

"93-701-4. Persons in certain relations cannot be exam-